

111TH CONGRESS
1ST SESSION

S. 1393

AN ACT

To authorize appropriations for fiscal year 2010 for defense activities of the Department of Energy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Energy
3 National Security Act for Fiscal Year 2010”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional defense committees.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY
AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY
PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. Funding table.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Nuclear weapons stockpile life extension program.
Sec. 3112. Elimination of nuclear weapons life extension program from excep-
tion to requirement to request funds in budget of the Presi-
dent.
Sec. 3113. Repeal of Reliable Replacement Warhead program.
Sec. 3114. Authorization of use of International Nuclear Materials Protection
and Cooperation program funds for bilateral and multilateral
nonproliferation and disarmament activities.
Sec. 3115. Repeal of prohibition on funding activities associated with inter-
national cooperative stockpile stewardship.
Sec. 3116. Modification of minor construction threshold for plant projects.
Sec. 3117. Two-year extension of authority for appointment of certain sci-
entific, engineering, and technical personnel.
Sec. 3118. Repeal of sunset date for consolidation of counterintelligence pro-
grams of Department of Energy and National Nuclear Security
Administration.

Subtitle C—Other Matters

Sec. 3131. Ten-year plan for utilization and funding of certain Department of
Energy facilities.
Sec. 3132. Review of management and operation of certain national labora-
tories.
Sec. 3133. Inclusion in 2010 stockpile stewardship plan of certain information
relating to stockpile stewardship criteria.

Sec. 3134. Comptroller General of the United States review of projects carried out by the Office of Environmental Management of the Department of Energy pursuant to the American Recovery and Reinvestment Act of 2009.

Sec. 3135. Identification in budget materials of amounts for certain Department of Energy pension obligations.

Sec. 3136. Expansion of authority of Ombudsman of Energy Employees Occupational Illness Compensation Program.

Sec. 3137. Comptroller General study of stockpile stewardship program.

Sec. 3138. Sense of the Senate on production of molybdenum-99.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—MARITIME ADMINISTRATION

Sec. 3301. Maritime Administration.

1 **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

2 For purposes of this Act, the term “congressional de-
3 fense committees” has the meaning given that term in sec-
4 tion 101(a)(16) of title 10, United States Code.

5 **DIVISION C—DEPARTMENT OF** 6 **ENERGY NATIONAL SECURITY** 7 **AUTHORIZATIONS AND** 8 **OTHER AUTHORIZATIONS**

9 **TITLE XXXI—DEPARTMENT OF** 10 **ENERGY NATIONAL SECURITY** 11 **PROGRAMS**

12 **Subtitle A—National Security** 13 **Programs Authorizations**

14 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-** 15 **TION.**

16 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds
17 are hereby authorized to be appropriated to the Depart-

1 ment of Energy for fiscal year 2010 for the activities of
2 the National Nuclear Security Administration in carrying
3 out programs necessary for national security in the
4 amount of \$10,051,215,000, to be allocated as follows:

5 (1) For weapons activities, \$6,490,619,000.

6 (2) For defense nuclear nonproliferation activi-
7 ties, including \$705,900,000 for fissile materials dis-
8 position, \$2,136,709,000.

9 (3) For naval reactors, \$1,003,133,000.

10 (4) For the Office of the Administrator for Nu-
11 clear Security, \$420,754,000.

12 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—
13 From funds referred to in subsection (a) that are available
14 for carrying out plant projects, the Secretary of Energy
15 may carry out new plant projects for the National Nuclear
16 Security Administration as follows:

17 (1) For readiness in technical base and facili-
18 ties, the following new plant project:

19 Project 10–D–501, Nuclear Facility Risk
20 Reduction (NFRR), Y–12 National Security
21 Complex, Oak Ridge, Tennessee, \$12,500,000.

22 (2) For defense nuclear security, the following
23 new plant project:

1 Project 10–D–701, Security Improvement
2 Project (SIP), Y–12 National Security Com-
3 plex, Oak Ridge, Tennessee, \$49,000,000.

4 (3) For naval reactors, the following new plant
5 projects:

6 Project 10–D–904, Naval Reactors Facility
7 (NRF) infrastructure upgrades, Naval Reactors
8 Facility, Idaho Falls, Idaho, \$700,000.

9 Project 10–D–903, Security upgrades,
10 Knolls Atomic Power Laboratory, Knolls Site
11 and Kesselring Site, Schenectady, New York,
12 \$1,500,000.

13 **SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

14 Funds are hereby authorized to be appropriated to
15 the Department of Energy for fiscal year 2010 for defense
16 environmental cleanup activities in carrying out programs
17 necessary for national security in the amount of
18 \$5,395,831,000.

19 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

20 Funds are hereby authorized to be appropriated to
21 the Department of Energy for fiscal year 2010 for other
22 defense activities in carrying out programs necessary for
23 national security in the amount of \$852,468,000.

1 **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

2 Funds are hereby authorized to be appropriated to
 3 the Department of Energy for fiscal year 2010 for defense
 4 nuclear waste disposal for payment to the Nuclear Waste
 5 Fund established in section 302(c) of the Nuclear Waste
 6 Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount
 7 of \$98,400,000.

8 **SEC. 3105. FUNDING TABLE.**

9 The amounts authorized to be appropriated by sec-
 10 tions 3101, 3102, 3103, and 3104 shall be available, in
 11 accordance with the requirements of section 4001, for
 12 projects, programs, and activities, and in the amounts,
 13 specified in the funding table in section 4501.

14 **Subtitle B—Program Authoriza-**
 15 **tions, Restrictions, and Limita-**
 16 **tions**

17 **SEC. 3111. NUCLEAR WEAPONS STOCKPILE LIFE EXTEN-**
 18 **SION PROGRAM.**

19 Section 4204 of the Atomic Energy Defense Act (50
 20 U.S.C. 2524) is amended to read as follows:

21 **“SEC. 4204. NUCLEAR WEAPONS STOCKPILE LIFE EXTEN-**
 22 **SION PROGRAM.**

23 **“(a) PROGRAM REQUIRED.—**The Secretary of En-
 24 ergy shall, in consultation with the Secretary of Defense,
 25 carry out a program to provide for the extension of the

1 effective life of the weapons in the nuclear weapons stock-
2 pile without nuclear weapons testing.

3 “(b) ADMINISTRATIVE RESPONSIBILITY FOR PRO-
4 GRAM.—

5 “(1) IN GENERAL.—The program under sub-
6 section (a) shall be carried out through the National
7 Nuclear Security Administration.

8 “(2) INCLUSION OF PROGRAM FUNDS IN BUDG-
9 ET.—For each budget submitted by the President to
10 Congress under section 1105 of title 31, United
11 States Code, the amounts requested for the program
12 under subsection (a) shall be clearly identified in the
13 budget justification materials submitted to Congress
14 in support of that budget.

15 “(c) PROGRAM PLAN.—As part of the program under
16 subsection (a), the Secretary of Energy shall develop a
17 long-term plan to extend the effective life of the weapons
18 in the nuclear weapons stockpile without nuclear weapons
19 testing. The plan shall include the following:

20 “(1) Mechanisms to provide for the manufac-
21 ture, maintenance, and modernization of each weap-
22 on design in the nuclear stockpile, as needed.

23 “(2) Mechanisms to expedite the collection of
24 information necessary for carrying out the program,
25 including information relating to the aging of mate-

1 rials and components, new manufacturing tech-
2 niques, and the replacement or substitution of mate-
3 rials.

4 “(3) Mechanisms to ensure the appropriate as-
5 signment of roles and missions for each nuclear
6 weapons laboratory and production plant of the De-
7 partment of Energy, including mechanisms for allo-
8 cation of workload, mechanisms to ensure the car-
9 rying out of appropriate modernization activities,
10 and mechanisms to ensure the retention of skilled
11 personnel.

12 “(4) Mechanisms to ensure that each national
13 laboratory of the National Nuclear Security Admin-
14 istration has full and complete access to all weapons
15 data to enable a rigorous peer review process to sup-
16 port the annual assessment of the condition of the
17 nuclear weapons stockpile required under section
18 4205.

19 “(5) Mechanisms for allocating funds for activi-
20 ties under the program, including allocations of
21 funds by weapon type and facility.

22 “(6) An identification of the funds needed, in
23 the current fiscal year and in each of the next 5 fis-
24 cal years, to carry out the program.

1 “(d) ANNUAL UPDATES.—The Secretary of Energy
 2 shall update the plan required under subsection (c) annu-
 3 ally and shall submit the updated plan to Congress as part
 4 of the plan for maintaining the nuclear weapons stockpile
 5 submitted to Congress under section 4203(c).

6 “(e) SENSE OF CONGRESS ON FUNDING OF PRO-
 7 GRAM.—It is the sense of Congress that the President
 8 should include in each budget for a fiscal year submitted
 9 to Congress under section 1105 of title 31, United States
 10 Code, sufficient funds to carry out in that fiscal year the
 11 activities under the program under subsection (a) that are
 12 specified in the most current version of the plan required
 13 under subsection (c).”.

14 **SEC. 3112. ELIMINATION OF NUCLEAR WEAPONS LIFE EX-**
 15 **TENSION PROGRAM FROM EXCEPTION TO RE-**
 16 **QUIREMENT TO REQUEST FUNDS IN BUDGET**
 17 **OF THE PRESIDENT.**

18 Section 4209 of the Atomic Energy Defense Act (50
 19 U.S.C. 2529) is amended—

20 (1) in subsection (c), by striking “necessary—
 21 ” and all that follows through the period and insert-
 22 ing “necessary to address proliferation concerns.”;
 23 and

24 (2) in subsection (d)—

25 (A) by striking paragraph (1); and

1 (B) by redesignating paragraphs (2) and
2 (3) as paragraphs (1) and (2), respectively.

3 **SEC. 3113. REPEAL OF RELIABLE REPLACEMENT WARHEAD**
4 **PROGRAM.**

5 (a) IN GENERAL.—Section 4204A of the Atomic En-
6 ergy Defense Act (50 U.S.C. 2524a) is repealed.

7 (b) CONFORMING AMENDMENT.—The table of con-
8 tents for that Act is amended by striking the item relating
9 to section 4204A.

10 **SEC. 3114. AUTHORIZATION OF USE OF INTERNATIONAL**
11 **NUCLEAR MATERIALS PROTECTION AND CO-**
12 **OPERATION PROGRAM FUNDS FOR BILAT-**
13 **ERAL AND MULTILATERAL NONPROLIFERA-**
14 **TION AND DISARMAMENT ACTIVITIES.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law and subject to subsection (b), the Secretary
17 of Energy may obligate or expend not more than 10 per-
18 cent of the funds authorized to be appropriated or other-
19 wise made available for the International Nuclear Mate-
20 rials Protection and Cooperation program in a fiscal year
21 to provide assistance for or to otherwise carry out bilateral
22 or multilateral activities relating to nonproliferation or
23 disarmament.

24 (b) NOTIFICATION OF CONGRESSIONAL DEFENSE
25 COMMITTEES.—The Secretary may obligate or expend

1 funds pursuant to subsection (a) if, not less than 15 days
2 before obligating or expending such funds—

3 (1) the Secretary notifies the congressional de-
4 fense committees of the intent of the Secretary to
5 obligate or expend such funds; and

6 (2) the President certifies to the congressional
7 defense committees that obligating or expending
8 such funds is necessary to support the national secu-
9 rity objectives of the United States.

10 **SEC. 3115. REPEAL OF PROHIBITION ON FUNDING ACTIVI-**
11 **TIES ASSOCIATED WITH INTERNATIONAL CO-**
12 **OPERATIVE STOCKPILE STEWARDSHIP.**

13 (a) IN GENERAL.—Section 4301 of the Atomic En-
14 ergy Defense Act (50 U.S.C. 2561) is repealed.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 for that Act is amended by striking the item relating to
17 section 4301.

18 **SEC. 3116. MODIFICATION OF MINOR CONSTRUCTION**
19 **THRESHOLD FOR PLANT PROJECTS.**

20 Section 4701(3) of the Atomic Energy Defense Act
21 (50 U.S.C. 2741(3)) is amended by striking “\$5,000,000”
22 and inserting “\$7,000,000”.

1 **SEC. 3117. TWO-YEAR EXTENSION OF AUTHORITY FOR AP-**
2 **POINTMENT OF CERTAIN SCIENTIFIC, ENGI-**
3 **NEERING, AND TECHNICAL PERSONNEL.**

4 Section 4601(c)(1) of the Atomic Energy Defense Act
5 (50 U.S.C. 2701(c)(1)) is amended by striking “Sep-
6 tember 30, 2009” and inserting “September 30, 2011”.

7 **SEC. 3118. REPEAL OF SUNSET DATE FOR CONSOLIDATION**
8 **OF COUNTERINTELLIGENCE PROGRAMS OF**
9 **DEPARTMENT OF ENERGY AND NATIONAL**
10 **NUCLEAR SECURITY ADMINISTRATION.**

11 Section 3117 of the John Warner National Defense
12 Authorization Act for Fiscal Year 2007 (Public Law 109–
13 364; 120 Stat. 2507; 42 U.S.C. 7144b note) is amended
14 by amending subsection (a) to read as follows:

15 “(a) **TRANSFER OF FUNCTIONS.**—The functions, per-
16 sonnel, funds, assets, and other resources of the Office of
17 Defense Nuclear Counterintelligence of the National Nu-
18 clear Security Administration are transferred to the Sec-
19 retary of Energy, to be administered (except to any extent
20 otherwise directed by the Secretary) by the Director of the
21 Office of Counterintelligence of the Department of En-
22 ergy.”.

Subtitle C—Other Matters

SEC. 3131. TEN-YEAR PLAN FOR UTILIZATION AND FUND- ING OF CERTAIN DEPARTMENT OF ENERGY FACILITIES.

(a) IN GENERAL.—The Administrator for Nuclear Security and the Under Secretary for Science of the Department of Energy shall jointly develop a plan to use and fund, over a ten-year period, the following facilities of the Department of Energy:

(1) The National Ignition Facility at the Lawrence Livermore National Laboratory, California.

(2) The Los Alamos Neutron Science Center at the Los Alamos National Laboratory, New Mexico.

(3) The “Z” Machine at the Sandia National Laboratories, New Mexico.

(4) The Microsystems and Engineering Sciences Application (MESA) Facility at the Sandia National Laboratories, New Mexico.

(b) SUBMITTAL OF PLAN.—Not later than 45 days after the date of the enactment of this Act, the Administrator for Nuclear Security and the Under Secretary for Science of the Department of Energy shall submit to the congressional defense committees the plan required by subsection (a).

1 (c) REQUIREMENT TO SPECIFY SOURCE OF FACILITY
2 FUNDING IN BUDGET REQUESTS.—In any budget request
3 for the Department of Energy for a fiscal year that is sub-
4 mitted to Congress after the date of the enactment of this
5 Act, the Secretary of Energy shall identify for that fiscal
6 year the portion of the funding for each facility specified
7 in subsection (a) that is to be provided by the National
8 Nuclear Security Administration and by the Office of
9 Science of the Department of Energy.

10 **SEC. 3132. REVIEW OF MANAGEMENT AND OPERATION OF**
11 **CERTAIN NATIONAL LABORATORIES.**

12 (a) IN GENERAL.—Not later than 60 days after the
13 date of the enactment of this Act, the Secretary of Energy
14 shall, in consultation with the Committee on Armed Serv-
15 ices of the Senate and the Committee on Armed Services
16 of the House of Representatives, appoint an independent
17 panel of experts to conduct a review of the management
18 and operation of the following:

19 (1) The Lawrence Livermore National Labora-
20 tory, California.

21 (2) The Los Alamos National Laboratory, New
22 Mexico.

23 (3) The Sandia National Laboratories, New
24 Mexico.

25 (b) ADMINISTRATIVE PROVISIONS.—

1 (1) APPOINTMENT OF CHAIRPERSON.—The
2 Secretary of Energy shall appoint a chairperson of
3 the panel from among the members of the panel.

4 (2) DESIGNATION OF AGENCY STAFF TO
5 PANEL.—The Secretary of Energy, the Secretary of
6 Defense, and the Director of National Intelligence
7 shall each designate one or more employees of the
8 Department of Energy, the Department of Defense,
9 and the intelligence community, respectively, to serve
10 as liaisons between the panel and the Department of
11 Energy, the Department of Defense, or the intel-
12 ligence community, as the case may be.

13 (3) AGENCY COOPERATION.—The Secretary of
14 Energy shall, in consultation with the Secretary of
15 Defense and the Director of National Intelligence,
16 ensure that the panel receives full and timely co-
17 operation from the Department of Energy, the De-
18 partment of Defense, and the Director of National
19 Intelligence in conducting the review required under
20 subsection (a).

21 (4) SUPPORT FROM FEDERALLY FUNDED RE-
22 SEARCH AND DEVELOPMENT CENTER.—The Sec-
23 retary of Energy may use a federally funded re-
24 search and development center not associated with

1 the Department of Energy to provide support to the
2 panel.

3 (c) ELEMENTS.—The review required under sub-
4 section (a) shall include, with respect to each laboratory
5 specified in such subsection, an evaluation of the following:

6 (1) The quality of the scientific research being
7 conducted at the laboratory, including research with
8 respect to weapons science, nonproliferation, energy,
9 and basic science.

10 (2) The quality of the engineering being con-
11 ducted at the laboratory.

12 (3) The general operations of the laboratory, in-
13 cluding the management of facilities and procedures
14 with respect to safety, security, environmental man-
15 agement and compliance, and human capital.

16 (4) The financial operations of the laboratory,
17 including contract administration, accounting con-
18 trols, and management of property and equipment.

19 (5) The management of work conducted by the
20 laboratory for entities other than the Department of
21 Energy, including academic institutions and other
22 Federal agencies, and interactions between the lab-
23 oratory and such entities.

1 (6) The adequacy and effectiveness of the form
2 and scope of current management contracts in im-
3 plementing the mission of the laboratory.

4 (7) The effectiveness of the management and
5 oversight of the laboratory by the Department of
6 Energy.

7 (d) REPORT OF PANEL.—The panel shall submit to
8 the Secretary of Energy a report containing the results
9 of the review and any recommendations of the panel re-
10 sulting from the review.

11 (e) TRANSMITTAL TO CONGRESS.—Not later than
12 January 1, 2011, the Secretary of Energy shall transmit
13 to the Committee on Armed Services of the Senate and
14 the Committee on Armed Services of the House of Rep-
15 resentatives the report of the panel submitted under sub-
16 section (d) and any comments or recommendations of the
17 Secretary with respect to that report.

18 **SEC. 3133. INCLUSION IN 2010 STOCKPILE STEWARDSHIP**
19 **PLAN OF CERTAIN INFORMATION RELATING**
20 **TO STOCKPILE STEWARDSHIP CRITERIA.**

21 (a) IN GENERAL.—The Secretary of Energy shall in-
22 clude in the 2010 stockpile stewardship plan the elements
23 specified in subsection (b).

24 (b) ELEMENTS.—The elements specified in this sub-
25 section are the following:

1 (1) An update of any information or criteria in-
2 cluded in the report on stockpile stewardship criteria
3 submitted under subsection (c) of section 4202 of
4 the Atomic Energy Defense Act (50 U.S.C. 2522).

5 (2) A description of any additional information
6 identified under paragraph (1) of such subsection (c)
7 or criteria established under subsection (a) of such
8 section 4202 during the period beginning on the
9 date of the submittal of the report under section
10 3133 of the National Defense Authorization Act for
11 Fiscal Year 2004 (Public Law 108–136; 117 Stat.
12 1751; 50 U.S.C. 2523 note) and ending on the date
13 of the submittal of the 2010 stockpile stewardship
14 plan.

15 (3) For each science-based tool developed or
16 modified by the Department of Energy during the
17 period described in paragraph (2) to collect informa-
18 tion needed to determine that the nuclear weapons
19 stockpile is safe, secure, and reliable—

20 (A) a description of the relationship of the
21 science-based tool to the collection of such in-
22 formation; and

23 (B) a description of criteria for assessing
24 the effectiveness of the science-based tool in col-
25 lecting such information.

1 (c) 2010 STOCKPILE STEWARDSHIP PLAN DE-
 2 FINED.—In this section, the term “2010 stockpile stew-
 3 ardsip plan” means the updated version of the plan for
 4 maintaining the nuclear weapons stockpile developed
 5 under section 4203 of the Atomic Energy Defense Act (50
 6 U.S.C. 2523) and required to be submitted to Congress
 7 on May 1, 2010, by subsection (c) of such section.

8 **SEC. 3134. COMPTROLLER GENERAL OF THE UNITED**
 9 **STATES REVIEW OF PROJECTS CARRIED OUT**
 10 **BY THE OFFICE OF ENVIRONMENTAL MAN-**
 11 **AGEMENT OF THE DEPARTMENT OF ENERGY**
 12 **PURSUANT TO THE AMERICAN RECOVERY**
 13 **AND REINVESTMENT ACT OF 2009.**

14 (a) IN GENERAL.—The Comptroller General of the
 15 United States shall conduct a series of three reviews, as
 16 described in subsections (b), (c), and (d), of projects car-
 17 ried out by the Office of Environmental Management of
 18 the Department of Energy (in this section referred to as
 19 the “Office”) using American Recovery and Reinvestment
 20 Act funds.

21 (b) PHASE ONE REVIEW.—

22 (1) IN GENERAL.—Beginning on the date of the
 23 enactment of this Act, the Comptroller General shall
 24 conduct a review of the following:

1 (A) The criteria used by the Office to se-
2 lect projects to be carried out using American
3 Recovery and Reinvestment Act funds.

4 (B) The extent to which lessons learned
5 during previous accelerations of defense envi-
6 ronmental cleanup efforts were used in the de-
7 velopment of such criteria.

8 (C) The process used by the Office to esti-
9 mate costs and develop schedules for such
10 projects.

11 (D) The process used by the Office for the
12 independent validation of the scope, cost, and
13 schedule for such projects.

14 (E) The criteria and methodology used by
15 the Office to measure the contribution of each
16 such project toward reducing the overall costs,
17 and meeting the goals, of defense environmental
18 cleanup.

19 (2) REPORT.—Not later than 30 days after the
20 date of the enactment of this Act, the Comptroller
21 General shall submit to the congressional defense
22 committees a report containing the results of the re-
23 view conducted under paragraph (1).

24 (c) PHASE TWO REVIEW.—

1 (1) IN GENERAL.—The Comptroller General
2 shall conduct a review, during the period described
3 in paragraph (2), of the following:

4 (A) The implementation of each project
5 carried out using American Recovery and Rein-
6 vestment Act funds.

7 (B) The extent to which each such project
8 is meeting the cost and scheduling goals of the
9 project.

10 (C) The number of jobs created or main-
11 tained through such projects.

12 (D) The adequacy of contract oversight for
13 such projects.

14 (E) Any technical problems or other prob-
15 lems in connection with such projects that are
16 identified by the Comptroller General in the
17 course of the review.

18 (F) Any management and implementation
19 issues or actions, or other systemic issues, iden-
20 tified by the Comptroller General in the course
21 of the review that either hinder or assist the ef-
22 fective management of defense environmental
23 cleanup efforts.

24 (2) PERIOD DESCRIBED.—The period described
25 in this paragraph is the period—

1 (A) beginning on the date on which the
2 Comptroller General submits the report re-
3 quired under subsection (b)(2); and

4 (B) ending on the later of—

5 (i) the date on which all projects car-
6 ried out using American Recovery and Re-
7 investment Act funds have been completed;
8 or

9 (ii) the date on which all American
10 Recovery and Reinvestment Act funds have
11 been obligated or expended or are no
12 longer available to be obligated or ex-
13 pended.

14 (3) REPORTS.—The Comptroller General shall
15 submit to the congressional defense committees a re-
16 port on the status of the review conducted under
17 paragraph (1) not later than 30 days after submit-
18 ting the report required under subsection (b)(2) and
19 every 120 days thereafter until the end of the period
20 described in paragraph (2).

21 (d) PHASE THREE REVIEW.—

22 (1) IN GENERAL.—Beginning on the date on
23 which the Comptroller General submits the last re-
24 port required under subsection (c)(3), the Comp-

1 troller General shall conduct a review of the fol-
2 lowing:

3 (A) The implementation of all projects car-
4 ried out using American Recovery and Reinvest-
5 ment Act funds, including the number of such
6 projects that were completed, that were not
7 completed, that were completed on budget, that
8 exceeded the budget for such project, that were
9 completed on schedule, and that exceeded the
10 scheduling goals for such project.

11 (B) The impact on employment as a result
12 of the completion of such projects.

13 (C) Any lessons learned as a result of ac-
14 celerating such projects.

15 (D) The extent to which the achievement
16 of the overall goals of defense environmental
17 cleanup were accelerated, and the overall costs
18 of defense environmental cleanup were reduced,
19 as a result of such projects.

20 (E) Any other issues the Comptroller Gen-
21 eral considers appropriate with respect to such
22 projects.

23 (2) REPORT.—Not later than 90 days after
24 submitting the last report required under subsection
25 (c)(3), the Comptroller General shall submit to the

1 congressional defense committees a report containing
2 the results of the review conducted under paragraph
3 (1).

4 (e) AMERICAN RECOVERY AND REINVESTMENT ACT
5 FUNDS DEFINED.—In this section, the term “American
6 Recovery and Reinvestment Act funds” means funds made
7 available for the Office of Environmental Management
8 under the heading “DEFENSE ENVIRONMENTAL CLEAN-
9 UP” under the heading “ENVIRONMENTAL AND
10 OTHER DEFENSE ACTIVITIES” under the heading
11 “DEPARTMENT OF ENERGY” under title IV of divi-
12 sion A of the American Recovery and Reinvestment Act
13 of 2009 (Public Law 111–5; 123 Stat. 140).

14 **SEC. 3135. IDENTIFICATION IN BUDGET MATERIALS OF**
15 **AMOUNTS FOR CERTAIN DEPARTMENT OF**
16 **ENERGY PENSION OBLIGATIONS.**

17 The Secretary of Energy shall include in the budget
18 justification materials submitted to Congress in support
19 of the Department of Energy budget for a fiscal year (as
20 submitted with the budget of the President under section
21 1105(a) of title 31, United States Code) specific identi-
22 fication, as a budgetary line item, of the amounts required
23 to meet the pension obligations of the Department of En-
24 ergy for contractor employees at each facility of the De-

1 partment of Energy operated using amounts authorized
 2 to be appropriated for the Department of Energy.

3 **SEC. 3136. EXPANSION OF AUTHORITY OF OMBUDSMAN OF**
 4 **ENERGY EMPLOYEES OCCUPATIONAL ILL-**
 5 **NESS COMPENSATION PROGRAM.**

6 (a) IN GENERAL.—Section 3686 of the Energy Em-
 7 ployees Occupational Illness Compensation Program Act
 8 of 2000 (42 U.S.C. 7385s–15) is amended—

9 (1) in subsection (c), by inserting “and subtitle
 10 B” after “this subtitle” each place it appears;

11 (2) in subsection (d), by inserting “and subtitle
 12 B” after “this subtitle”;

13 (3) in subsection (e), by inserting “and subtitle
 14 B” after “this subtitle” each place it appears;

15 (4) by redesignating subsection (g) as sub-
 16 section (h); and

17 (5) by inserting after subsection (f) the fol-
 18 lowing new subsection:

19 “(g) NATIONAL INSTITUTE FOR OCCUPATIONAL
 20 SAFETY AND HEALTH OMBUDSMAN.—In carrying out the
 21 duties of the Ombudsman under this section, the Ombuds-
 22 man shall work with the individual employed by the Na-
 23 tional Institute for Occupational Safety and Health to
 24 serve as an ombudsman to individuals making claims
 25 under subtitle B.”.

1 (b) CONSTRUCTION.—Except as specifically provided
 2 in subsection (g) of section 3686 of the Energy Employees
 3 Occupational Illness Compensation Program Act of 2000,
 4 as amended by subsection (a) of this section, nothing in
 5 the amendments made by such subsection (a) shall be con-
 6 strued to alter or affect the duties and functions of the
 7 individual employed by the National Institute for Occupa-
 8 tional Safety and Health to serve as an ombudsman to
 9 individuals making claims under subtitle B of the Energy
 10 Employees Occupational Illness Compensation Program
 11 Act of 2000 (42 U.S.C. 7384l et seq.).

12 **SEC. 3137. COMPTROLLER GENERAL STUDY OF STOCKPILE**
 13 **STEWARDSHIP PROGRAM.**

14 (a) IN GENERAL.—The Comptroller General of the
 15 United States shall conduct a study of the stockpile stew-
 16 ardship program established under section 4201 of the
 17 Atomic Energy Defense Act (50 U.S.C. 2521) to deter-
 18 mine if the program was functioning, as of December
 19 2008, as envisioned when the program was established.

20 (b) ELEMENTS.—The study required by subsection
 21 (a) shall include the following:

22 (1) An assessment of whether the capabilities
 23 determined to be necessary to maintain the nuclear
 24 weapons stockpile without nuclear testing have been

1 implemented and the extent to which such capabili-
2 ties are functioning.

3 (2) A review and description of the agreements
4 governing use, management, and support of the ca-
5 pabilities developed for the stockpile stewardship
6 program and an assessment of enforcement of, and
7 compliance with, those agreements.

8 (3) An assessment of plans for surveillance and
9 testing of nuclear weapons in the stockpile and the
10 extent of the compliance with such plans.

11 (4) An assessment of—

12 (A) the condition of the infrastructure at
13 the plants and laboratories of the nuclear weap-
14 ons complex;

15 (B) the value of nuclear weapons facilities
16 built after 1992;

17 (C) any plans that are in place to main-
18 tain, improve, or replace such infrastructure;

19 (D) whether there is a validated require-
20 ment for all planned infrastructure replacement
21 projects; and

22 (E) the projected costs for each such
23 project and the timeline for completion of each
24 such project.

(5) An assessment of the efforts to ensure and maintain the intellectual and technical capability of the nuclear weapons complex to support the nuclear weapons stockpile.

(6) Recommendations for the stockpile stewardship program going forward.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing the results of the study required by subsection (a).

SEC. 3138. SENSE OF THE SENATE ON PRODUCTION OF MOLYBDENUM-99.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are fewer than five reactors around the world currently capable of producing molybdenum-99 (Mo-99) and there are no such reactors in the United States that can provide a reliable supply of Mo-99 to meet medical needs.

(2) Since November 2007, there have been major disruptions in the global availability of Mo-99, including at facilities in Canada and the Netherlands, which have led to shortages of Mo-99-based

1 medical products in the United States and around
2 the world.

3 (3) Ensuring a reliable supply of medical
4 radioisotopes, including Mo-99, is of great impor-
5 tance to the public health.

6 (4) It is also a national security priority of the
7 United States, and specifically of the Department of
8 Energy, to encourage the production of low-enriched
9 uranium-based radioisotopes in order to promote a
10 more peaceful international nuclear order.

11 (5) The National Academy of Sciences has
12 identified a need to establish a reliable capability in
13 the United States for the production of Mo-99 and
14 its derivatives for medical purposes using low-en-
15 riched uranium.

16 (6) There also exists a capable industrial base
17 in the United States that can support the develop-
18 ment of Mo-99 production facilities and can conduct
19 the processing and distribution of radiopharma-
20 ceutical products for use in medical tests worldwide.

21 (b) SENSE OF THE SENATE.—It is the sense of the
22 Senate that—

23 (1) radioisotopes and radiopharmaceuticals, in-
24 cluding Mo-99 and its derivatives, are essential com-
25 ponents of medical tests that help diagnose and

1 treat life-threatening diseases affecting millions of
 2 people each year; and

3 (2) the Secretary of Energy should continue
 4 and expand a program to meet the need identified
 5 by the National Academy of Sciences to ensure a
 6 source of Mo-99 and its derivatives for use in med-
 7 ical tests to help ensure the health security of the
 8 United States and around the world and promote
 9 peaceful nuclear industries through the use of low-
 10 enriched uranium.

11 **TITLE XXXII—DEFENSE NU-**
 12 **CLEAR FACILITIES SAFETY**
 13 **BOARD**

14 **SEC. 3201. AUTHORIZATION.**

15 There are authorized to be appropriated for fiscal
 16 year 2010, \$26,086,000 for the operation of the Defense
 17 Nuclear Facilities Safety Board under chapter 21 of the
 18 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

19 **TITLE XXXIII—MARITIME**
 20 **ADMINISTRATION**

21 **SEC. 3301. MARITIME ADMINISTRATION.**

22 Section 109 of title 49, United States Code, is
 23 amended to read as follows:

1 **“§ 109. Maritime Administration**

2 “(a) ORGANIZATION.—The Maritime Administration
3 is an administration in the Department of Transportation.

4 “(b) MARITIME ADMINISTRATOR.—The head of the
5 Maritime Administration is the Maritime Administrator,
6 who is appointed by the President by and with the advice
7 and consent of the Senate. The Administrator shall report
8 directly to the Secretary of Transportation and carry out
9 the duties prescribed by the Secretary.

10 “(c) DEPUTY MARITIME ADMINISTRATOR.—The
11 Maritime Administrator shall have a Deputy Maritime Ad-
12 ministrator, who is appointed in the competitive service
13 by the Secretary, after consultation with the Adminis-
14 trator. The Deputy Administrator shall carry out the du-
15 ties prescribed by the Administrator. The Deputy Admin-
16 istrator shall be Acting Administrator during the absence
17 or disability of the Administrator and, unless the Sec-
18 retary designates another individual, during a vacancy in
19 the office of Administrator.

20 “(d) DUTIES AND POWERS VESTED IN SEC-
21 RETARY.—All duties and powers of the Maritime Adminis-
22 tration are vested in the Secretary.

23 “(e) REGIONAL OFFICES.—The Maritime Adminis-
24 tration shall have regional offices for the Atlantic, Gulf,
25 Great Lakes, and Pacific port ranges, and may have other
26 regional offices as necessary. The Secretary shall appoint

1 a qualified individual as Director of each regional office.
2 The Secretary shall carry out appropriate activities and
3 programs of the Maritime Administration through the re-
4 gional offices.

5 “(f) INTERAGENCY AND INDUSTRY RELATIONS.—
6 The Secretary shall establish and maintain liaison with
7 other agencies, and with representative trade organiza-
8 tions throughout the United States, concerned with the
9 transportation of commodities by water in the export and
10 import foreign commerce of the United States, for the pur-
11 pose of securing preference to vessels of the United States
12 for the transportation of those commodities.

13 “(g) DETAILING OFFICERS FROM ARMED FORCES.—
14 To assist the Secretary in carrying out duties and powers
15 relating to the Maritime Administration, not more than
16 five officers of the armed forces may be detailed to the
17 Secretary at any one time, in addition to details author-
18 ized by any other law. During the period of a detail, the
19 Secretary shall pay the officer an amount that, when
20 added to the officer’s pay and allowances as an officer in
21 the armed forces, make the officer’s total pay and allow-
22 ances equal to the amount that would be paid to an indi-
23 vidual performing work the Secretary considers to be of
24 similar importance, difficulty, and responsibility as that
25 performed by the officer during the detail.

1 “(h) CONTRACTS AND AUDITS.—

2 “(1) CONTRACTS.—In the same manner that a
3 private corporation may make a contract within the
4 scope of its authority under its charter, the Sec-
5 retary may make contracts for the United States
6 Government and disburse amounts to—

7 “(A) carry out the Secretary’s duties and
8 powers under this section and subtitle V of title
9 46; and

10 “(B) protect, preserve, and improve collat-
11 eral held by the Secretary to secure indebted-
12 ness.

13 “(2) AUDITS.—The financial transactions of
14 the Secretary under paragraph (1) shall be audited
15 by the Comptroller General. The Comptroller Gen-
16 eral shall allow credit for an expenditure shown to
17 be necessary because of the nature of the business
18 activities authorized by this section or subtitle V of
19 title 46. At least once a year, the Comptroller Gen-
20 eral shall report to Congress any departure by the
21 Secretary from this section or subtitle V of title 46.

22 “(i) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, there are authorized to be
25 appropriated such amounts as may be necessary to

1 carry out the duties and powers of the Secretary re-
 2 lating to the Maritime Administration.

3 “(2) LIMITATIONS.—Only those amounts spe-
 4 cifically authorized by law may be appropriated for
 5 the use of the Maritime Administration for—

6 “(A) acquisition, construction, or recon-
 7 struction of vessels;

8 “(B) construction-differential subsidies in-
 9 cident to the construction, reconstruction, or re-
 10 conditioning of vessels;

11 “(C) costs of national defense features;

12 “(D) payments of obligations incurred for
 13 operating-differential subsidies;

14 “(E) expenses necessary for research and
 15 development activities, including reimbursement
 16 of the Vessel Operations Revolving Fund for
 17 losses resulting from expenses of experimental
 18 vessel operations;

19 “(F) the Vessel Operations Revolving
 20 Fund;

21 “(G) National Defense Reserve Fleet ex-
 22 penses;

23 “(H) expenses necessary to carry out part
 24 B of subtitle V of title 46; and

1 “(I) other operations and training expenses
2 related to the development of waterborne trans-
3 portation systems, the use of waterborne trans-
4 portation systems, and general administration.

5 “(3) TRAINING VESSELS.—Amounts may not be
6 appropriated for the purchase or construction of
7 training vessels for State maritime academies unless
8 the Secretary has approved a plan for sharing train-
9 ing vessels between State maritime academies.”.

Passed the Senate July 23, 2009.

Attest:

Secretary.

11TH CONGRESS
1ST Session

S. 1393

AN ACT

To authorize appropriations for fiscal year 2010 for defense activities of the Department of Energy, and for other purposes.